

(b) *Amount of payment: Safe harbor rule—(1) EFT Taxpayers.* The proprietor satisfies the requirements of paragraph (a)(1) of this section if by September 29 the amount paid is at least eleven-fifteenths (73.3 percent) of the tax liability incurred in the semimonthly return period for September 1-15, and the proprietor also pays any underpayment of tax resulting from the use of the safe harbor rule on or before October 14.

(2) *Other than EFT taxpayers.* The proprietor satisfies the requirements of paragraph (a)(2) of this section if the amount paid by September 28 is at least two-thirds (66.7 percent) of the tax liability incurred in the semimonthly return period for September 1-15, and the proprietor also pays any underpayment of tax resulting from the use of the safe harbor rule on or before October 14.

(c) *Weekends and holidays.* If the required tax payment due date for the return period September 16-25 (non-EFT taxpayers) or September 16-26 (EFT taxpayers), falls on a Saturday or legal holiday, the proprietor's return and remittance are due on the immediately preceding day. If the required tax payment due date falls on a Sunday, the proprietor's return and payment are due on the immediately following day.

(d)

Example. Payment of tax for the month of September: (1) *Facts.* X, a proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semimonthly period of September. For the period September 16-26, X incurred tax liability in the amount of \$45,000, and for the period September 27-30, X incurred tax liability in the amount of \$2,000.

(2) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semimonthly period of September is due no later than September 29. X's payment of tax for the period September 16-26 is also due no later than September 29. X may use the safe harbor rule to determine the amount of payment due for the period of September 16-26. Under the safe harbor rule, X's payment of tax must equal \$22,000.00, eleven-fifteenths of the tax liability incurred during the first semimonthly period of September. Additionally, X's payment of tax in the amount of \$2,000 for the period September 27-30 must be paid no later than October 14. X must also pay the underpayment of tax, \$23,000.00, for the period September 16-26, no later than October 14.

(26 U.S.C. 5061)

§ 19.238 Payment by mail or courier.

(a) *Payment by mail.* The proprietor must file each return on form TTBF 5000.24 in accordance with the instructions printed on the form. If the proprietor submits the return by U.S. mail, the official postmark of the U.S. Postal Service stamped on the cover in which the return is mailed will be considered to be the date of delivery of the return and also the remittance, if included. If the postmark on the cover is illegible, the proprietor will bear the burden of proving when the postmark was made. If the proprietor sends the return with or without remittance by registered mail or certified mail, the date of registry, or the date of the postmark on the sender's postal receipt for certified mail, will be treated as the date of delivery of the return and also of the remittance, if included.

(b) *Payment by courier or other private delivery service.* A proprietor may send a return, with or without remittance, by courier or other private delivery service. If the proprietor sends the return with or without remittance with a courier or private delivery service that is available to the general public and that is at least as timely and reliable as the U.S. mail, and the delivery service has tracking and tracing procedures for its deliveries, TTB will consider the date of tender to the delivery service as recorded in the tracking and tracing record for the parcel as the date of delivery. If the proprietor sends the return, with or without remittance, by courier or other private delivery service that does not meet the above requirements, the actual date of delivery to TTB will be treated as the date of delivery of the return and also of the remittance, if included.

(26 U.S.C. 6302)

§ 19.239 Form of payment.

(a) *General.* The proprietor must pay the tax due on spirits when filing a return on form TTB F 5000.24, Excise Tax Return. The remittance for the tax must accompany the return and may be in any form that is authorized by § 70.61 of this chapter and acceptable to the appropriate TTB officer. Exception: This does not apply to payments that

must be made by EFT. For EFT payments see § 19.240.

(b) *Consequences of default.* If a check or money order tendered in payment of taxes is not paid on presentment, or if the taxpayer is otherwise in default in payment, then any remittance made during the period of default must be either in cash or by an acceptable certified instrument. The proprietor must continue to pay in cash or by certified instrument as long as the proprietor remains in default, and until the appropriate TTB officer finds that accepting a check will not jeopardize the revenue.

(c) *Certified instruments.* Acceptable certified instruments include certified checks, cashier's checks or treasurer's checks drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, Territory or possession of the United States, or a money order, as provided in § 70.61 of this chapter.

(d) *Payment of taxes.* The proprietor must make checks or money orders payable to "Alcohol and Tobacco Tax and Trade Bureau".

(26 U.S.C. 5061, 6311)

§ 19.240 Payment of tax by electronic fund transfer.

(a) *General*—(1) *Criteria requiring EFT payment.* Under certain conditions, a proprietor may not make payments by cash, check, or money order. Instead, the proprietor must use the services of a commercial bank to pay tax on distilled spirits tax by EFT. Payments must be made by EFT in the current calendar year if the proprietor, as a taxpayer, was liable for \$5 million or more in taxes on distilled spirits during the prior calendar year. For the purpose of determining whether the proprietor is subject to this requirement, the proprietor must use the total amount of tax liability on distilled spirits incurred under this part and parts 26 and 27 of this chapter (gross tax liability). Gross tax liability includes the distilled spirits tax on all taxable withdrawals of spirits and taxable importations of spirits, as well as tax on spirits brought into the United States from Puerto Rico and the Virgin Islands during the calendar year. This figure includes taxes incurred at any

and all premises at which the proprietor conducts regulated activities. The proprietor may not net out or adjust for any drawback, credits or refunds of tax that are allowed. Overpayments made in excess of actual tax liability will not be included in the gross tax liability figure.

(2) *Controlled group.* If the taxpayer is a member of a controlled group, the controlled group is treated as a single taxpayer when calculating liability of \$5 million or more in distilled spirits taxes during the prior calendar year. A controlled group is a related group of taxpayers and is defined in subpart D of part 70 of this chapter.

(3) *Separate return and payment for each DSP.* When the proprietor makes payments by EFT, the proprietor must file a separate return on form TTB F 5000.24 and make a separate EFT payment for each DSP from which spirits are withdrawn upon determination of tax.

(b) *Requirements*—(1) *Notice to TTB.* If the proprietor's gross distilled spirits tax liability is \$5 million or more in one calendar year, the proprietor must notify the appropriate TTB officer of this fact not later than January 10 of the following year. The proprietor must use the total amount of tax liability incurred under this part and parts 26 and 27 of this chapter to determine whether it must make this notification. Exception: this notice requirement does not apply if the proprietor already pays tax on distilled spirits by EFT. The notice shall be an agreement to make payments by EFT.

(2) *Separate EFT for each return.* For each return filed in accordance with this part, the proprietor will direct the bank to make an EFT to the Treasury Account for the amount of the tax reported due on the return. The proprietor must give instructions to the bank early enough for the EFT to be made to the Treasury Account by no later than close of business on the last day for filing the return as prescribed in §§ 19.236 or 19.237, as appropriate.

(3) *Discontinuing EFT payments.* If the proprietor pays tax by EFT and has a gross tax liability of less than \$5 million in distilled spirits taxes during a calendar year, combining tax liabilities incurred under this part and parts 26